

TYPE III DEVELOPMENT & ENVIRONMENTAL REVIEW, STAFF REPORT & RECOMMENDATION

Form DS1402



Project Name: Steve Duch Moritorium Wavier

Case Number: FOR2006-00029

Location: NE 179th Place

Request: Extinguishment of 6 year moratorium for a proposed land division in the R-5 zoning District.

Applicant: Steve Duch
1982 Naples Street N
Salem, OR 97303
503.881.8585

Contact Person: Same as Applicant

Property Owners: Same as Applicant

RECOMMENDATION

Approve subject to conditions of approval

Team Leader's Initials: _____ **Date Issued:** May 24, 2006

Public Hearing Date: June 8, 2006

County Review Staff:

	<u>Name</u>	<u>Phone Ext.</u>	<u>E-mail Address</u>
Planner:	Jim Vandling	4714	james.vandling@clark.wa.gov
Engineer (Trans. & Stormwater):	Ken Burgstahler	4113	ken.burgstahler@clark.wa.gov
Engineer (Trans. Concurrency):	Shelley Oylear	4354	Shelley.Oylear@clark.wa.gov
Team Leader:	Travis Goddard	4180	travis.goddard@clark.wa.gov
Engineer Supervisor:	Richard Drinkwater, P.E.	4492	Richard.Drinkwater@clark.wa.gov

(Trans. & Stormwater):			
Engineering Supervisor: (Trans. Concurrency):	Steve Schulte P. E.	4017	Steve.Schulte@clark.wa.gov

Comp Plan Designation: Rural Residential (R-5)

Parcel Number(s): (Parcel Number 278403-000) Tax Lot 47, Section 30, Township 5 North, Range 3 East of the Willamette Meridian

Applicable Laws:

Clark County Code Sections: 15.12 (Uniform Fire Code), 40.210.020 (Rural Districts), 40.260.080 (Forest Practices), 40.350 (Transportation & Circulation), 40.360 (Solid Waste & Recycling), 40.370 (Sewer and Water), 40.410 (CARAs), 40.440 (Habitat Conservation), 40.450 (Wetland Protection), 40.380 (Stormwater & Erosion Control), 40.500 (Procedures), 40.510.030 (Type III Process), 40.520.040 (Site Plan Review), 40.570 (SEPA), 40.520.030 (Conditional Use Permits); and 40.570 (SEPA)

Neighborhood Association/Contact:

Neighborhood Advisory Council of Clark County (NACCC) Art Stubbs, Vice Chair
6804 NE 86th Court; Vancouver, WA 98662

Time Limits:

The application was submitted on March 31, 2006, and determined to be fully complete on April 7, 2006. Therefore, the County Code requirement for issuing a decision within 92 days lapses on July 8, 2006. The State requirement for issuing a decision within 120 calendar days, lapses on August 5, 2006.

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application is submitted. If a pre-application conference is required, the application shall earlier contingently be vested on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference on this matter was not required.

The fully complete application was submitted on March 31, 2006 and determined to be fully complete on April 7, 2006. Given these facts the application is vested on April 7, 2006, the fully complete date. There are no disputes regarding the vesting date of this application.

Public Notice:

Notice of application and public hearing was mailed to the applicant, NACCC and property owners within 500) feet of the site on April 28, 2006 (see Exhibit 6). Notice of the public hearing was published in "The Columbian" newspaper on April 28, 2006.

Public Comments:

The county did receive one phone call from a neighbor asking for clarification on the nature of this request.

Project Overview

The site which is the subject of this request was approved for a timber harvest by the Washington State Department of Natural Resources (DNR) on May 11, 2005, under Permit No. FPA 2911546 which was executed by a different prior owner than the applicant of this request.

The site is southwest of Amboy and is accessed by NE 179th Place, extended by a logging road which was constructed for the timber harvest.

Pursuant to RCW 76.09 and WAC-222-030, all DNR approved forest practices in the rural residential zoning districts are subject to an automatic 6 year moratorium on development activities which would convert the land to a use which is incompatible with the growing of commercial timber.

The existing conditions of the site consist of Douglas fir reproduction (seedlings) and mixed species hardwoods in the riparian buffer which complies with 40.440 (Habitat Conservation). There are no structures on the site.

Table 1 shows the comprehensive plan designation, zoning, and current land use on the site and on the abutting properties:

Table 1: Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use
Site	R-5	R-5	Douglas fir seedling plantation
North	R-5	R-5	Rural Residential
East	R-5	R-5	Rural Residential
South	R-5	R-5	Rural Residential
West	R-5	R-5	Forest land & Rural Residential

The USDA Soil Conservation Service, Soil Survey of Clark County, Washington, 1972, classifies the soils on the entire site as those of Cinebar silt loam (CnB) on slopes ranging from zero to 8 percent, and Cinebar silt loam (CnE) on slopes ranging from 20 to 30 percent. There are no jurisdictional wetlands.

The property is not located within an urban growth area. It is situated in an area served by Fire Protection District 10, and the Battle Ground School District. No public water or sewer service exists within 300 feet of the site.

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

- | | |
|---------------------------------|--|
| 1. Earth | 9. Housing |
| 2. Air | 10. Aesthetics |
| 3. Water | 11. Light and Glare |
| 4. Plants | 12. Recreation |
| 5. Animals | 13. Historic and Cultural Preservation |
| 6. Energy and Natural Resources | 14. Transportation |
| 7. Environmental Health | 15. Public Services |
| 8. Land and Shoreline Use | 16. Utilities |

Then staff reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements, and, therefore, are not discussed below.

LAND USE:

Finding 1 Lot Size:

The applicant is request extinguishment of a 6 year moratorium on a parcel of approximately 20.0 acres which is zoned R-5, prior to applying for a preliminary short plat of 4 lots. CCC40.210.020 requires a minimum parcel size of five (5) acres in this zone. Therefore, at the time of final plat approval, all lots shall comply with the minimum lot size and width requirements for the R-5 zone as described in this finding.

Dimensional Standards

The parcel is located within the R-5 zoning districts of Clark County and the comprehensive Plan Designation for the site is R-5. CCC40.210.020-3 identifies the following lot requirements for parcels within the R-5 zoning district:

- | | |
|---------------------------|---------|
| Minimum parcel size | 5 acres |
| Minimum lot width (feet) | 140 |
| Minimum lot depth (feet) | none |
| Front yard setback (feet) | 50 |

Side yard setback (feet)	20, 50 for agriculture buildings
Rear yard setback (feet)	20, 50 for agriculture buildings
Street side yard setback (feet)	25

Finding 2 Permitted Use:

Single Family Residences including appurtenances are a permitted use through a Type II Review process in the R-5 zoning district.

FOREST PRACTICES:

Finding 3 Development Moratoria

CCC40.260.080(B)(3) states that; *Any development moratorium established pursuant to Section 40.260.080(C)(2) may be lifted by the hearing examiner when the following requirements are met.*

a. Public Hearing Required.

(1) The responsible official shall set a date for public hearing before the hearing examiner after all the requests for additional information or plan correction have been satisfied.

(2) The public hearing shall follow the procedures set forth in Subtitle 40.5, Procedures.

b. Review Criteria. The hearing examiner shall consider the lifting of a development moratorium established pursuant to this section when the following criteria are met:

(1) The forest practices conducted on the site meet the standards set forth in Section 40.260.080(A)(5).

(2) Corrective actions are implemented which would bring the forest practices into compliance with this section.

(3) If critical areas or critical area buffers have been damaged, the hearing examiner may impose increased critical area buffer standards together with additional requirements to mitigate the damage, the cost of which shall equal at least twice the value of the timber harvested within a critical area and buffer.

Finding 4

CCC40.260.080(B)(3) further states that; *The hearing examiner shall review all requests for removal of a development moratorium, any comments received, and applicable county regulations or policies and may inspect the property prior to rendering a decision. The hearing examiner may approve an application for a request to remove a development moratorium, approve the application with conditions, require modification of the proposal to comply with specified requirements or local conditions, or deny the application if it fails to comply with requirements of this article. Required Written Findings and Determinations. Removal of a development moratorium shall be approved by the hearing examiner if the application meets the review and approval criteria in subsections (3)(b) and (3)(c) of this section.*

Finding 5

An on-site inspection by county staff found that the forest practices conducted on the site met the standards as set forth in Section 40.260.080(A)(5). (See Condition No. 1)

Determination:

Determination of Non-Significance (DNS): Clark County, as lead agency for review of this proposal, has determined that this proposal does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (e).

Date of Publication & Comment Period:

Publication date of this Notice was April 28, 2006

Public Comment Deadline:

June 8, 2006

Staff Contact Person:

Jim Vandling, (360) 397-2375, ext. 4714
Travis Goddard, (360) 397-2375, ext. 4130

Responsible Official:

Michael V. Butts

**Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011
Web Page at: <http://www.co.clark.wa.us>**

RECOMMENDATION

Based upon the request, and the findings and conclusions stated above, staff recommends the Hearings Examiner **APPROVE** this request, subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Conditions of Approval

A. Conditions that must be met prior to Final Plat approval; or if improvements are approved by the county for bonding or other secure method, such conditions shall be met prior to issuance of Occupancy Permits per CCC, Section 40.350.030(C)(4)(i) & (j).

All subsequent development proposals shall comply with the following applicable provisions of the Clark County Code: Title 15 (Fire Prevention), Section 40.210.020 (Rural Residential Zoning District), Section 40.210.020 (Rural Residential Zoning District), Section 40.460 (Shoreline Overlay District), Chapter 40.350 (Transportation), Chapter 40.380 (Storm Water Drainage and Erosion Control), Section 40.450 (Wetland Protection Ordinance), Section 40.510 (Procedures), Section 40.540 (Land Division Ordinance), Section 40.570 (SEPA), Section 40.610 (Impact Fees), Title 24 (Public Health) and the Clark County Comprehensive Plan and RCW 58.17.

Note: Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a hearing extension and pay half the original review fee with a maximum fee of \$5,000.

HEARING EXAMINER DECISION AND APPEAL PROCESS

This report to the Hearing Examiner is a recommendation from the Development Services Division of Clark County, Washington.

The Examiner may adopt, modify or reject this recommendation. The Examiner will render a decision within 14 calendar days of closing the public hearing. The County will mail a copy of the decision to the applicant and neighborhood association within 7 days of receipt from the Hearing Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearing Examiner.

An **appeal** of any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The appeal shall be filed with the Board of County Commissioners, Public Service Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the final land use decisions shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for

review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;

3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied, on to prove the error; and,
4. A check in the amount of **\$266** (made payable to the Clark County Board of County Commissioners).

Attachments:

- Copy of Vicinity Map
- Exhibit List

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

**Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA. 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011**

A copy of the Clark County Code is also available on our Web Page at:
Web Page at: <http://www.clark.wa.gov>